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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-974]

Steel Wheels from the People's Republic of China: Notice of Preliminary Affirmative Determination of Critical Circumstances

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) has preliminarily determined that critical circumstances exist with respect to imports of steel wheels from the People's Republic of China (PRC).

EFFECTIVE DATE: [Insert Date of Publication in the Federal Register.]

FOR FURTHER INFORMATION CONTACT: Robert Copyak or Eric Greynolds, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4014, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: 202-482-2209 and 202-482-6071, respectively.

SUPPLEMENTARY INFORMATION:

Case History

On March 30, 2011, the Department received a countervailing duty (CVD) petition concerning imports of steel wheels from the PRC filed in proper form by Accuride Corporation (Accuride) and Hayes Lemmerz International, Inc. (collectively, petitioners).¹ This

¹ See Petition for the Imposition of Countervailing Duties (Petition). A public version of the Petition and all other public documents and public versions of business proprietary documents for this investigation are available on the public file in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building.

investigation was initiated on April 19, 2011.² The affirmative preliminary determination was published on September 6, 2011.³

On September 1, 2011, petitioners alleged that critical circumstances exist with respect to imports of steel wheels from the PRC and submitted U.S. Census Data in support of their allegation at Exhibit I.⁴ On September 9, 2011, the Department requested from the three mandatory respondents - the Jingu Companies,⁵ the Xingmin Companies,⁶ and the Centurion Xingmin Companies⁷ - monthly shipment data of subject merchandise to the United States for the period October 2010 through June 2011.

On September 21, 2011, the Xingmin Companies submitted to the Department their monthly shipment data of subject merchandise to the United States for the period October 2010 through June 2011.⁸ At verification, the Xingmin Companies provided some minor corrections to these data.⁹ On September 25, 2011, the Jingu Companies submitted to the Department their monthly shipment data of subject merchandise to the United States for the period October 2010

² See Certain Steel Wheels From the People's Republic of China: Initiation of Countervailing Duty Investigation, 76 FR 23302 (April 26, 2011) (Initiation Notice), and accompanying Initiation Checklist.

³ See Certain Steel Wheels From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment With Final Antidumping Duty Determination, 76 FR 55012 (September 6, 2011) (Preliminary Determination).

⁴ See Petitioners' Critical Circumstances Allegation (September 1, 2011).

⁵ The Jingu Companies are Zhejiang Jingu Company Limited (Zhejiang Jingu), Chengdu Jingu Wheel Co., Ltd. (Chengdu Jingu), Shanghai Yata Industrial Co. Ltd. (Shanghai Yata), and Zhejiang Wheel World Industrial Co., Ltd. (Wheel World).

⁶ The Xingmin Companies are Shandong Xingmin Wheel Co. Ltd. (Xingmin) and Sino-tex (Longkou) Wheel Manufacturers, Inc. (Sino-tex).

⁷ The Centurion Companies are Jining Centurion Wheels Manufacturing Co. Ltd. (Jining Centurion) and Jining CII Wheel Manufacture Co., Ltd. (Jining CII).

⁸ See the Xingmin Companies' third supplemental questionnaire response titled "Steel Wheels from China: Third Supplemental Questionnaire Response" (September 21, 2010) at Exhibit I.

⁹ See the Department's January 6, 2012, verification report titled "Verification Report of Xingmin Wheel Co. Ltd" at 2 (filed on IA ACCESS on January 10, 2012).

through June 2011.¹⁰ At verification, the Jingu Companies provided some minor corrections to these data.¹¹ On September 26, 2011, the Centurion Companies submitted to the Department their monthly shipment data of subject merchandise to the United States for the period October 2010 through June 2011.¹²

Period of Investigation

The period for which we are measuring subsidies, or the period of investigation (POI), is calendar year 2010.

Scope of Investigation

The products covered by this investigation are steel wheels with a wheel diameter of 18 to 24.5 inches. Rims and discs for such wheels are included, whether imported as an assembly or separately. These products are used with both tubed and tubeless tires. Steel wheels, whether or not attached to tires or axles, are included. However, if the steel wheels are imported as an assembly attached to tires or axles, the tire or axle is not covered by the scope. The scope includes steel wheels, discs, and rims of carbon and/or alloy composition and clad wheels, discs, and rims when carbon or alloy steel represents more than fifty percent of the product by weight. The scope includes wheels, rims, and discs, whether coated or uncoated, regardless of the type of coating.

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 8708.70.05.00, 8708.70.25.00,

¹⁰ See the Jingu Companies' third supplemental questionnaire response titled "CVD Investigation of Steel Wheels from China: Critical Circumstances Shipment Data" (filed on IA ACCESS on September 25, 2011, and dated September 26, 2011) at Exhibit I.

¹¹ See the Department's January 31, 2012, verification report titled "Verification Report Regarding Information Submitted by Zhejiang Jingu Company Limited" at 2 and 5-6.

¹² See the Centurion Companies' third supplemental questionnaire response titled "CVD Investigation of Steel Wheels from China: Critical Circumstances Shipment Data" (dated September 26, 2010) at Exhibit I.

8708.70.45.30, and 8708.70.60.30. Imports of the subject merchandise may also enter under the following categories of the HTSUS: 8406.90.4580, 8406.90.7500, 8420.99.9000, 8422.90.1100, 8422.90.2100, 8422.90.9120, 8422.90.9130, 8422.90.9160, 8422.90.9195, 8431.10.0010, 8431.10.0090, 8431.20.0000, 8431.31.0020, 8431.31.0040, 8431.31.0060, 8431.39.0010, 8431.39.0050, 8431.39.0070, 8431.39.0080, 8431.43.8060, 8431.49.1010, 8431.49.1060, 8431.49.1090, 8431.49.9030, 8431.49.9040, 8431.49.9085, 8432.90.0005, 8432.90.0015, 8432.90.0030, 8432.90.0080, 8433.90.1000, 8433.90.5020, 8433.90.5040, 8436.99.0020, 8436.99.0090, 8479.90.9440, 8479.90.9450, 8479.90.9496, 8487.90.0080, 8607.19.1200, 8607.19.1500, 8708.70.1500, 8708.70.3500, 8708.70.4560, 8708.70.6060, 8709.90.0000, 8710.00.0090, 8714.19.0030, 8714.19.0060, 8716.90.1000, 8716.90.5030, 8716.90.5060, 8803.20.0015, 8803.20.0030, and 8803.20.0060.

These HTSUS numbers are provided for convenience and customs purposes only; the written description of the scope is dispositive.

Comments of the Parties

In their critical circumstances allegation, Petitioners also allege that there is a reasonable basis to believe that there are subsidies in this investigation which are inconsistent with the World Trade Organization (WTO) Agreement on Subsidies and Countervailing Measures (Subsidies Agreement). Petitioners cite to the Preliminary Determination, in which the Department preliminarily determined that the Jingu Companies have received several subsidies which are contingent on export performance. See Petitioners' Critical Circumstances Allegation (September 1, 2011) at 2.

Petitioners also claim in their critical circumstances allegation that there have been massive imports of steel wheels in the three months following the filing of the petition on

March 30, 2011. Petitioners provided Census Bureau Data, which they contend demonstrate that imports of subject merchandise increased by more than 15 percent, which is required to be considered “massive” under section 351.206(h)(2) of the Department’s regulations. Petitioners submit that, by volume, imports increased approximately 48 percent from 510,174 wheels in the first quarter of 2011, to 753,604 wheels in the second quarter of 2010. *Id.* at 3 and Exhibit 1. Petitioners also contend that, by value, imports increased approximately 40 percent, from \$17,787,704 in the first quarter of 2011, to \$24,893,481 in the second quarter of 2010. *Id.*

Analysis

Section 703(e)(1) of the Tariff Act of 1930, as amended (the Act), provides that the Department will preliminarily determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A) the alleged countervailable subsidy is inconsistent with the Subsidies Agreement, and (B) there have been massive imports of the subject merchandise over a relatively short period.

When determining whether an alleged countervailable subsidy is inconsistent with the Subsidies Agreement, the Department limits its findings to those subsidies contingent on export performance or use of domestic over imported goods (*i.e.*, those prohibited under Article 3 of the Subsidies Agreement).¹³ In the Preliminary Determination, the Department found that, during the POI, the Jingu Companies received countervailable benefits under five programs that are contingent upon export performance. Therefore, we preliminarily determine that there is a

¹³ See, e.g., Notice of Preliminary Negative Determination of Critical Circumstances: Certain New Pneumatic Off-the-Road Tires From the People’s Republic of China, 73 FR 21588, 21589-90 (April 22, 2008), unchanged in Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Carbon and Certain Alloy Steel Wire Rod From Germany, 67 FR 55808, 55809 (August 30, 2002).

reasonable basis to believe or suspect that these five programs are inconsistent with the Subsidies Agreement.

In the Preliminary Determination, the Department found that, during the POI, the Centurion Companies and Xingmin Companies did not receive countervailable benefits under any programs that are contingent upon export performance. Therefore, we preliminarily determine that there is not a reasonable basis to believe or suspect that the Centurion Companies and the Xingmin Companies received benefits inconsistent with the Subsidies Agreement.

In determining whether imports of the subject merchandise have been “massive,” section 351.206(h)(1) of the Department’s regulations provides that the Department normally will examine: (i) the volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, the Department will not consider imports to be massive unless imports during the “relatively short period” (comparison period) have increased by at least 15 percent compared to imports during an “immediately preceding period of comparable duration” (base period). See 19 CFR 351.206(h)(2).

Section 351.206(i) of the Department’s regulations defines “relatively short period” as normally being the period beginning on the date the proceeding commences (i.e., the date the petition is filed) and ending at least three months later. For consideration of this allegation, we have used a three-month base period (i.e., January 2011 through March 2011) and a three-month comparison period (i.e., April 2011 through June 2011).

In determining whether there were massive imports from the Jingu Companies, we analyzed the Jingu Companies’ monthly shipment data for the period January 2011 through June 2011. These data indicate that there was not a massive increase in shipments of subject

merchandise to the United States by the Jingu Companies during the three-month period immediately following the filing of the petition on March 30, 2011. Specifically, shipments of subject merchandise to the United States from the Jingu Companies decreased, both in terms of volume and value. See the Memorandum to the File from Robert Copyak, Senior Financial Analyst, AD/CVD Operations Office 3, titled “Critical Circumstances Shipment Data Analysis,” (Critical Circumstances Memorandum) (February, 2011) at Attachment I.

With regard to whether imports of subject merchandise by the “all other” exporters of steel wheels in the PRC were massive, we preliminarily determine that because there is evidence of the existence of countervailable subsidies that are inconsistent with the Subsidies Agreement, an analysis is warranted as to whether there was a massive increase in shipment by the “all other” companies, in accordance with section 351.206(h)(1) of the Department’s regulations. Therefore, we analyzed, in accordance with 19 CFR 351.206(i), monthly shipment data for the period January 2011 through June 2011, using shipment data from the International Trade Commission’s (ITC’s) Dataweb and adjusting it to remove the shipments by the respondents participating in the investigation.¹⁴ For this analysis, we used only the data pertaining to the HTSUS numbers 8708.70.05.00, 8708.70.25.00, 8708.70.45.30, and 8708.70.60.30, which are the HTSUS categories under which a majority of the subject merchandise entered the United States. We did not use the HTSUS numbers described in the scope as categories that imports of subject merchandise “may also enter under” because they

¹⁴ See, e.g., Certain Oil Country Tubular Goods From the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Negative Critical Circumstances Determination, 74 FR 47210,47212 (September 15, 2009), unchanged in Certain Oil Country Tubular Goods From the People’s Republic of China: Final Affirmative Countervailing Duty Determination: Final Negative Critical Circumstances Determination, 74 FR 64045 (December 7, 2009).

are basket categories. The data provided by the respondents and the data for shipments by other exporters from the ITC's Dataweb indicate there was a massive increase in shipments, as defined by 19 CFR 351.206(h). See Critical Circumstances Memorandum at Attachment II.

Conclusion

We preliminarily determine that critical circumstances do not exist for imports of steel wheels from the three mandatory respondents the Jingu Companies, Centurion Companies, and Xingmin Companies. Although the Preliminary Determination indicates that the Jingu Companies benefited from programs that are inconsistent with the Subsidies Agreement, the Jingu Companies' shipment data does not indicate a massive increase in shipments of subject merchandise to the United States. With regard to Centurion and Xingmin, there is no evidence on the record indicating that either company benefited from programs that are inconsistent with the Subsidies Agreement and therefore we preliminarily determine that critical circumstances do not exist with regard to shipments from these two mandatory respondents.

We also preliminary determine, based on our analysis of the shipment data provided by the three mandatory respondents and ITC Dataweb data, that critical circumstances exist for imports from "all other" exporters of steel from the PRC. We will make a final determination concerning critical circumstances for steel wheels from the PRC when we make our final countervailable subsidy determination in this investigation.

Suspension of Liquidation

In accordance with section 703(e)(2)(A) of the Act, we are directing U.S. Customs and Border Protection to suspend, with regard to the "all other" companies only, liquidation of any unliquidated entries of subject merchandise from the PRC entered, or withdrawn from

warehouse for consumption, on or after June 8, 2011, which is 90 days prior to the date of publication of the Preliminary Determination in the Federal Register.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination.

This determination is issued and published pursuant to sections 703(f) and 777(i)(1) of the Act.

Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

____ February 27, 2012 _____
Date